

REMARKS

SPECIFICATION

In the specification, the paragraph at lines 5-11 of page 1 has been amended to indicate the serial number of a related application. The paragraph at lines 1-5 of page 2 has been amended to correct minor editorial problems.

STATUS OF CLAIMS

Claims 1-5, 10-14, and 19-23 have been canceled. Claims 6, 7, 9, 15, 16, 18, 24, 25, and 27 have been amended. Claims 28-36 have been added. Claims 6-9, 15-18, and 24-36 are currently pending in the application. Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

As an initial matter, it is noted that claims 6, 15, and 24 have been amended merely to incorporate the limitations of the claims from which they depend to place them in independent form. No limitations have been added or deleted. Thus, these claims have been amended in form only, not in substance. Since no narrowing amendment has been made, these claims are not subject to any estoppel. Accordingly, these claims are entitled to a full range of equivalents under the Doctrine of Equivalents.

CLAIM REJECTIONS – 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1, 2, 9, 10, 11, 18, 19, 20, and 27 under 35 U.S.C. §102(e) as being anticipated by Courts et al. (U.S. Patent No. 5,996,022). Claims 1, 2, 10, 11, 19, and 20 have been canceled, thus obviating the rejection of those claims. Claims 9, 18, and 27 have been amended to depend from

claims discussed below. Thus, the rejection of claims 9, 18, and 27 is respectfully traversed for at least the reasons discussed below.

CLAIM REJECTIONS – 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 3, 4, 12, 13, 21, and 22 under 35 U.S.C. §103(a) as being unpatentable over Courts et al. in view of Bellemore et al. (U.S. Patent No. 6,088,728). The Examiner rejected claims 5, 6, 14, 15, 23, and 24 under 35 U.S.C. §103(a) as being unpatentable over Courts et al. in view of Ault et al. (U.S. Patent No. 6,338,064). The Examiner rejected claims 7, 8, 16, 17, 25, and 26 under 35 U.S.C. §103(a) as being unpatentable over Courts et al. in view of Bayeh et al. (U.S. Patent No. 6,098,093). Claims 3-5, 12-14, and 21-23 have been canceled, thus obviating the rejection of those claims. The rejection of claims 6-8, 15-17, and 24-26 is respectfully traversed.

Independent Claim 6

Independent computer system claim 6 recites:

A computer system, comprising:

a shared storage;

a first server process, said first server process servicing a first request pertaining to a particular session, said first server process storing session information pertaining to said particular session in said shared storage; and

a second server process, said second server process servicing a second request pertaining to said particular session, said second server process accessing said session information from said shared storage and using said session information to service said second request;

wherein each of said first and second server processes has a memory space associated therewith, and wherein said memory-mapped file is mapped to at least a portion of the memory space associated with said first server process and at least a portion of the memory space associated with said second server process. (emphasis added)

The computer system of claim 6 advantageously enables session information to be shared across multiple processes in a multi-process environment. To enable such sharing, a shared persistent memory-mapped file is mapped to the memory space of multiple processes. The processes use this shared file to store session information. Because the memory spaces of the processes are mapped to the shared file, and because the processes use the shared file to store session information, the processes are able to access and manipulate all of the sessions in a system. Thus, sessions are no longer maintained on a process-specific basis. Rather, they are maintained on a centralized, shared basis. As a result, different requests pertaining to the same session may be serviced by different server processes without any adverse effects. Each process is able to access and manipulate all of the state information pertaining to a particular session. By enabling session information to be shared across multiple processes, the computer system of claim 6 eliminates the session management errors experienced by the prior art.

Furthermore, by mapping the memory space of each of the processes to a shared persistent memory-mapped file, the computer system of claim 6 avoids the inefficiencies of storing and retrieving session information via requests to and responses from a server. The direct reading and writing of session information to a shared memory-mapped file is faster than the reading and writing of session information via requests to and responses from a server. Furthermore, by permitting processes to continue to read and write session information to their own memory spaces, which are mapped to the shared memory-mapped file, the processes do not need to be modified or configured to send requests to and receive responses from a server instead.

Such a computer system is neither disclosed nor suggested by Courts et al. Instead of teaching that session information is stored in a shared memory-mapped file,

Courts et al. discloses that session information is stored via requests to a global session server. Indeed, the Office Action concedes that Courts et al. fails to teach or suggest a memory-mapped file as recited by claim 6. Thus, taken individually, Courts et al. fails to teach or suggest the computer system of claim 6.

Taken individually, Ault et al. also fails to teach or suggest the computer system of claim 6. Indeed, the Office Action does not allege that Ault et al. teaches or suggests all of the features of claim 6. The Office Action merely relies upon Ault et al. to disclose a memory-mapped file. However, Ault et al. lacks any teaching or suggestion that session information is stored in the memory-mapped file. Rather, Ault et al. discloses that a user pool is stored in the memory-mapped file.

In an attempt to show why a person of ordinary skill in the art would have been motivated to modify the global session server of Courts et al. to comprise a shared memory-mapped file, the Office Action only alleges that such a modification would have been obvious because such a modification allegedly would allow an organized and simple way of managing and using the shared memory. This is peculiar, because neither Courts et al. nor Ault et al. teaches or suggests that storing information in a shared memory-mapped file is either simple or organized. Moreover, neither of these references teaches or suggests that storing session information in a shared memory-mapped file is any simpler or more organized than storing session information via requests to a global session server. In light of these facts, the only conclusion that can be drawn is that the motivation alleged by the Office Action is based, impermissibly, on hindsight.

In *In re Dembiczak*, 50 USPQ2d 1614, 1617 (1999), the Court of Appeals for the Federal Circuit (CAFC) warned against the use of hindsight in an obviousness analysis:

Measuring a claimed invention against the standard established by section 103 requires the oft-difficult but critical step of casting the mind back to the time of

invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field.... Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is **rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.** (emphasis added)

The showing must be clear and particular, and broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence. *Id.* at 1617.

In *In re Lee*, 61 USPQ2d 1430, 1434 (2002), the Court of Appeals for the Federal Circuit (CAFC) held that an examiner's conclusory statements did not adequately address the issue of motivation to combine. Preceding the ruling in *Lee*, an examiner alleged that it would have been obvious to a person of ordinary skill in the relevant art to combine the teachings of two references to produce a claimed invention. The first reference described a television set having a menu display by which a user could adjust various picture and audio functions, but the display lacked a demonstration of how to adjust the functions. The second reference described a game's video display as having a demonstration mode that showed how to play the game, but the second reference did not mention the adjustment of picture or audio functions. *Id.* at 1431.

In rejecting a representative claim, which recited both a demonstration mode and demonstrating the adjustment of picture functions, the examiner stated that the combination of two references "would have been obvious to one of ordinary skill in the art since the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software" and that "another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial." *Id.* at 1432.

In vacating the rejection, the CAFC held that the examiner did not adequately support the selection and combination of the references. The CAFC explained:

The examiner's conclusory statements that 'the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software'

and that ‘another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial’ **do not adequately address the issue of motivation to combine. This factual question of motivation is material to patentability, and could not be resolved on subjective belief and unknown authority.** (emphasis added)

The present Office Action similarly fails to adequately address the issue of motivation to combine the references. The Office Action attempts to establish a motivation to combine Courts et al. with Ault et al. based on the conclusory statement that the combination would “allow an organized and simple way of managing and using the shared memory.” This conclusory statement, based on subjective belief and unknown authority, is remarkably similar in its subjectivity to the inadequate motivation offered by the examiner in *Lee* that a demonstration mode was “user friendly” and “functions as a tutorial.” The belief set forth in the present Office Action, that one of ordinary skill in the art would have been motivated to combine the teachings of Courts et al. and Ault et al. to “allow an organized and simple way of managing and using the shared memory,” is completely subjective, and the authority on which this belief is founded is completely unknown.

Like the motivations to combine alleged by the examiner in *Lee*, the alleged motivation to combine Courts et al. and Ault et al. is neither clear nor particular, and can only be characterized as being both broad and conclusory. Therefore, the Office Action has not made out a *prima facie* case of obviousness regarding claim 6.

For at least these reasons, Applicants submit that claim 6 is patentable over Courts et al. and Ault et al., taken individually or in combination.

Independent Claim 15

Claim 15 is a method claim analogous to the computer system claim of claim 6. Applicants submit that claim 15 is patentable over Courts et al. and Ault et al. for at least the same reasons as those given above in connection with claim 6.

Independent Claim 24

Claim 24 is a computer readable medium claim analogous to the computer system claim of claim 6. Applicants submit that claim 24 is patentable over Courts et al. and Ault et al. for at least the same reasons as those given above in connection with claim 6.

Remaining Dependent Claims

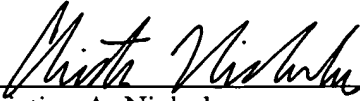
The pending claims not discussed so far are dependent claims that depend on an independent claim that is discussed above. Because each of the dependent claims includes the limitations of claims upon which they depend, the dependent claims are patentable for at least those reasons the claims upon which the dependent claims depend are patentable. Removal of the rejections with respect to the dependent claims and allowance of the dependent claims is respectfully requested. In addition, the dependent claims introduce additional limitations that independently render them patentable. Due to the fundamental difference already identified, a separate discussion of those limitations is not included at this time.

For at least the reasons set forth above, Applicants respectfully submit that all pending claims are patentable over the art of record, including the art cited but not applied. Accordingly, allowance of all claims respectfully is solicited hereby.

Respectfully submitted,

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on Sept. 8, 2003 by Trudy Bagdon